

REMARKS

I. Status of the Claims

At the time of the Action, Claims 1, 5-17 and 22-24 were pending. Claims 22-24 stand rejected under Section 102(a) or Section 102(e). All pending claims stand rejected under Section 103(a). These rejections are addressed hereinbelow.

II. The Section 102 Rejections

In rejecting independent Claim 22 under Section 102, the Action cites four different references: U.S. Patent No. 5,730,577 to Jones (Jones); U.S. Patent No. 6,149,372 to Lee et al. (Lee); U.S. Patent No. 6,176,672 to Egan et al. (Egan); and U.S. Patent No. 6,634,849 to Clary (Clary). The Action states that each of these references anticipates the subject matter of Claim 22.

In response, Applicant notes that none of these references disclose in any manner a "stairlift device" as recited in Claim 22. Instead, Jones, Egan and Clary are all concerned with devices for the loading of motorcycles onto vehicles, while Lee discloses a device which serves to facilitate cargo-loading of vehicles. The application clarifies that a "stairlift device" is intended to be employed to lift an occupant, not a vehicle or cargo. For example, the application as filed states (page 1, lines 17-19) that "the use of stairlifts has become widespread in recent years as a means of overcoming problems of immobility associated with infirmity or old age which result in difficulties in climbing stairs". It goes on to state (page 2, lines 19-22), with respect to prior stairlift devices, that "in order to be able to inspect such devices, the potential purchaser has no alternative but to travel to the premises of the manufacturer or retailer where various different designs of stairlift are available to be examined and tested in operation", and then refers (page 4, lines 11-12) to "the ready deployment of the device to its operational position for demonstration purposes" and discloses (page 4, lines 22-30) that, in the context of the present invention, "it is now possible for prospective purchasers of stairlifts to inspect and examine these devices at their own domestic residences", and that the device "may be conveniently stored.... in a car boot or the rear section of a hatchback or van and taken to the desired location", "can be simply deployed within a matter of minutes at a location adjacent the residence of the potential customer, tested by the person involved, and then stored away again in the vehicle for future

use", and "can be inspected with far greater comfort and convenience by a greater number of people."

It is also stated, in the first paragraph on page 5 of the application as filed, that embodiments of the invention "seek to overcome the difficulties associated with the inspection of the stairlifts of the prior art by enabling those with disabilities or infirmity to inspect and test stairlifts at the home, without the requirement to travel to other destinations. This is achieved by providing stairlifts and attachments which are readily transportable in a vehicle and may be simply assembled and coupled to the vehicle to allow inspection and demonstration of the devices and their mode of operation."

Based on the foregoing, Applicant submits that the meaning of the term "stairlift" in the context of the present invention would appear to be clearly defined in the application and would also be clear to one of ordinary skill in this art. As such, Applicant further submits that the devices disclosed by Jones, Lee *et al*, Egan *et al* or Clary cannot fairly be described as stairlifts in this context. Accordingly, Applicant respectfully requests that the rejections under Section 102 be withdrawn.

III. The Section 103 Rejections

A. Rejections of Claims 1 and 5-17

The Action rejects Claims 1 and 5-17 under Section 103(a) based on any of Clary, Egan, Lee or Jones in view of U.S. Patent No. 5,489,181 to Greaves (Greaves) and U.S. Patent No. 5,230,405 to Bartelt (Bartelt). The Action states that:

the primary references all show devices for transporting a small vehicle such as a platform, wheelchair, or motorcycle, on which a passenger may sit or stand, from a ground level into a larger vehicle. They do not show the passenger carrying means to comprise a chair with a support surface and armrests disposed on opposite sides and above the support surface.

Greaves and Bartelt are cited as disclosing a device for moving a passenger from one level to another that includes a chair with a support surface. Based on these characterizations, the Action concludes that Claims 1 and 5-17 are unpatentable under Section 103(a).

In response, Applicant agrees with the statement in the Action that none of the primary references includes passenger carrying means, and they all clearly lack any disclosure of a chair that would support a passenger as the passenger is lifted from the ground into a vehicle. There is no suggestion in any of the primary references to add a chair, or for that matter any type of structure that would support an occupant; instead, these references are largely pulley-or winch-driven devices that pull or drag a motorcycle, cargo or the like into the back of a vehicle. Greaves and Bartelt are directed to devices for lifting occupants, but Bartelt is limited to lifting an occupant up and down flights of stairs, and being so configured would not be suitable for use with a mobile vehicle. Greaves is directed to a passenger-lifting device that is used to lift an infirm passenger into a helicopter. Such a device would not be suitable for use with a vehicle such as an automobile or small truck.

Moreover, one of the problems addressed by devices of the present invention is the difficulty of allowing potential purchasers of stairlift devices to have ready access to demonstration models to allow them to select a suitable device, which would generally involve persons with mobility difficulties travelling to the premises of a manufacturer or retailer. The solution offered by the present invention is to provide what is effectively a mobile stairlift device, attached to a vehicle, which allows the device to be demonstrated at the homes of potential purchasers. This is simply never suggested in any of the cited references.

In view of the foregoing, Applicant respectfully submits that it would not have been obvious to the ordinarily skilled artisan to conceive a device as defined in Claim 1 based on the cited references. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

B. Rejections of Claims 1, 5-17 and 22-24

The Action also rejects all pending claims under Section 103(a) based in view of Bartelt and any of Lee, Egan, Clary and Jones. The Action concedes that Greaves:

shows the device to be mounted on wheels for portability rather than permanently attached to the vehicle; thus, the second end

of the guide means, although adjacent the ground, does not rest on the ground. Greaves also shows only one armrest.

The Action then states that:

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified Greaves by removing the wheels and attaching the device to a vehicle such that the second end of the guide means rested on the ground, as shown by Clary, Egan et al., Lee et al., or Jones, as this would enable the device to load a single vehicle with passengers at a variety of locations instead of loading multiple vehicles at a single location.

The Action also cites Bartelt as disclosing a chair with two armrests. Based on these characterizations, the Action concludes that all pending claims are unpatentable under Section 103(a).

In response, Applicant notes that modification of Greaves as suggested in the Action would destroy the purpose of the Greaves device: namely, to load passengers, and particularly infirm passengers, into aircraft vehicles such as helicopters. For aircraft loading, it would not be desirable to have an "on-board" loader for each aircraft, as this would add weight and occupy a considerable amount of the limited space within an aircraft. As such, employing a loader that can be moved easily between aircraft (for example, with wheels) would facilitate usage, and removing the wheels would clearly detract from the utility of the loader. Therefore, modification of the Greaves device in the manner described (*i.e.*, removing the wheels so that the free end of the device rests on the ground) would destroy a very desirable aspect of the Greaves device. Both the CCPA and the Federal Circuit have consistently held that when a §103 rejection is based upon a modification of a reference that destroys the intent, purpose or function of the invention disclosed in the primary reference, such a proposed modification is not proper and the *prima facie* case of obviousness cannot properly be made. In re Gordon, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984).

Based on the foregoing, Applicant submits that the rejection of all pending claims under Section 103(a) cannot stand, and respectfully requests that it be withdrawn.

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IV. Conclusion

Inasmuch as all of the outstanding issues raised in the Action have been addressed, Applicant respectfully submits that the application is in condition for allowance, and requests that it be passed to allowance and issue.

Respectfully submitted,


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